

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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DAVID ANTHONY VILLARREAL,

Plaintiff,

Case No. 1:09-CV-1033

v.

HON. GORDON J. QUIST

AVERN COHN, ARTHUR J. TARNOW,  
STEVEN R. WHALEN, MICHAEL A.  
COX, LAURA A. COOK,

Defendants.

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**ORDER**

Plaintiff, David Anthony Villarreal, seeks a writ of execution pursuant to Fed. R. Civ. P. 69(a) against Judge Avern Cohn, Judge Arthur Tarnow, Executive Magistrate Judge Steven Whalen, Michigan Attorney General Michael Cox, and Assistant Attorney General Laura Cook (collectively, “Defendants”). From any legal or other aspect Villarreal’s complaint is unintelligible. The best this court can figure out, Villarreal is trying to claim that his prior 28 U.S.C. § 2254 habeas petition was a secured transaction that entitled Villarreal, as the creditor, to a monetary judgment.

The Sixth Circuit has held that “a complaint may be dismissed *sua sponte* for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion.” *Clark v. United States*, 74 F. App’x 561, 562 (6th Cir. 2003) (citing *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999)) (emphasis added; quotations omitted). Here, Villarreal’s claim is devoid of merit because the denial of a habeas petition is not

a secured transaction through which a prisoner becomes a judge's or prosecutor's creditor. Additionally, Villarreal does not hold any judgment against Defendants; thus, Villarreal cannot obtain a writ of execution. Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's complaint (docket #1) is **DISMISSED** for lack of subject matter jurisdiction.

**This case is concluded.**

Dated: November 19, 2009

/s/ Gordon J. Quist  
GORDON J. QUIST  
UNITED STATES DISTRICT JUDGE